

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

BARRY J. CAVE,

Petitioner,

: Case No. 1:16-cv-929

- vs -

District Judge Michael R. Barrett
Magistrate Judge Michael R. Merz

WARDEN, North Central Correctional
Complex,

:

Respondent.

ORDER STRIKING UNTIMELY OBJECTIONS

This habeas corpus case, brought pro se by Petitioner Barry J. Cave, is before the Court on the filing of Petitioner's Objections (ECF No. 14) to the Magistrate Judge's Report and Recommendations (ECF No. 13).

The Report was filed December 7, 2017, and served on Petitioner the same day. The Notice Regarding Objections at the end of the Report notified Petitioner that he had seventeen days to file objections from the date of service (ECF No. 13, PageID 420). As an incarcerated person, Petitioner is entitled to have the Court treat his Objections as filed the day he mailed them. *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972). His Certificate of Service does not include a date when the Objections were mailed (See ECF No. 14, PageID 427). However, the envelope in which they were mailed is postmarked December 29, 2017, which is three days after the deadline of December

26, 2017. Cave neither sought nor received an extension of time to file objections.

Accordingly, the Objections are STRICKEN.

January 3, 2018.

s/ *Michael R. Merz*
United States Magistrate Judge